



**ASIC**

Australian Securities & Investments Commission

## **Introduction Speech – ASIC/ASX Seminar**

**Belinda Gibson**

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Thank you Robert for your introduction. Thank you also for the invitation to present this seminar with the ASX.

You and I know our two organisations are working closely together to supervise the capital markets. We have, as you said, different responsibilities. In order to perform our respective tasks we have different resources and staff with different skills, but the end is common – the promotion of a fair and informed market for Australia's investors. This seminar, like the joint information releases of recent weeks to which you have referred, demonstrates our unity of purpose.

I also wish to echo your remarks that it is important for all the community of market participants to work together. It is in our collective interests to maintain, indeed improve, the high reputation of our capital markets.

I am speaking to you today as a representative of ASIC, in three capacities. I am one of the three commissioners, the head of the capital markets taskforce, and also have direct responsibility to the Commission for those ASIC officers who supervise the markets, and who conduct market surveillance and enforcement.

The Taskforce was established in November 2007 to review what ASIC can do to build confidence in the integrity of Australia's capital markets. The recent market "volatility and turbulence" has focussed us on the urgency of the review.

**What is market integrity?** It is the features of transparency and fairness that operate in a market. It is the ability to transact business in a fair and fully informed market. The consensus is that we rank highly in the world in terms of integrity and competitiveness, but there is definitely room for improvement. Our stakeholders are telling us very clearly we need to do more, better, to enforce the insider trading laws.

You would have seen in the press the reports of some figures presented at the ASIC Summer School in February. These show significant early price movements in the 3 weeks immediately before takeovers are announced, and early falls before bad results are made public. It is difficult to know if this is clever speculation, tracking funds that follow a singular price movement, just market noise, or something more sinister, like insider trading. It is our task to divine and prove this to the court's satisfaction.

**Why does "market integrity" matter?** There are two answers to this. The first is economic. There are a number of studies that conclude that markets that exhibit relatively high levels of integrity have greater liquidity. Markets with a successful record of enforcement of insider trading (as opposed to just having the law on the books) seem to have a lower cost of capital. From these studies we conclude that market integrity is important in ensuring our capital markets remain internationally competitive.

The second reason as to why integrity matters is more human. Psychologically, people will be more willing to deal in a market when they think they have an equal opportunity to take profits, and that others cannot take unfair advantage of company information or sheer market power.

Our seminar this morning looks at continuous disclosure and corporate governance – both are very important planks of the markets regulations that are the very foundations of market integrity. This afternoon we launch into the somewhat more arcane world of JORC – arcane but enormously important to the reputation of the resources sector, which is in turn such an important part of the Western Australian economy.

There are a number of steps ASIC can take to improve confidence in the integrity of Australia's markets.

One is to win some cases. The Taskforce has identified a number of measures that should improve our effectiveness in surveillance, investigation and prosecution of markets offences. There are many things we can do to be more efficient and more focussed. We do not harvest fully the many skills that already exist in ASIC. We are also working closely with the ASX and the Commonwealth Director of Public Prosecutions to improve our coordination from referral of a potential issue to filing of charges where that is warranted.

A second step that ASIC will take is to be a more public regulator, leading discussion in the markets about the rules and our enforcement policies. This includes letting the markets know what we believe the law requires of participants. In recent weeks ASIC, together with the ASX, has issued a number of information releases that are intended to remind market participants of their obligations. The falling market condition is relatively novel to many "youngies" in the market. We felt it was timely this month to remind the market of the importance of disclosing the "bad news" promptly. This means adverse loan facility events and significant margin loan exposures. It was also appropriate to tell the market we are looking hard at manipulative behaviour that is illegal. Both the SEC in the USA and the Financial Services Authority in the UK have also done just that in recent weeks.

At this point I will hand the podium to Eric Mayne. He will introduce the Continuous Disclosure topic, from the ASX perspective. I will then return, to talk more about ASIC's role and the principles that guide our enforcement of the rules. The obligations of continuous disclosure cannot be divorced from the rules against insider trading and I will address this.

As I said earlier, our approach is to let you, the market participants, know what we expect and what we will look for. That should assist you in effective compliance.

We regard this as a very important dialogue.